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no successor, against such agency or officer as the President designates.

"(d) A consolidation plan may provide for transfers of appropriations or other budget authority in such manner that the aggregate amount of appropriations and other budget authority available for carrying out the Federal assistance programs involved in such plan shall be available for any or all such programs; and the aggregate amount of authorizations of appropriations or other budget authority for such programs shall be deemed an authorization of appropriations and other budget authority for any or all of such programs. The appropriations or portions of appropriations unexpended by reason of operation of this chapter may not be used for any purpose, but shall revert to the Treasury.

"§ 1007. Rules of Senate and House of Representatives on consolidation plans

"(a) This section is enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House with respect to consolidation plan resolutions referred to in subsection (b) of this section; and it supersedes other rules to the extent that it is inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(b) The provisions of sections 910–913 of this title shall apply with respect to a consolidation plan and, for such purposes—

"(1) all references in such sections to a 'reorganization plan' shall be treated as referring to a 'Federal assistance program consolidation plan', and

"(2) all reference in such sections to 'resolution' shall be treated as referring to a resolution of either House of the Congress, the matter after the resolving clause which is as follows: 'That the does not favor the Federal assistance program consolidation plan numbered transmitted to the Congress by the President on 19 .' The first blank therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled."

(b) The table of chapters of part I of title 5, United States Code, immediately preceding chapter 1, is amended by adding at the end thereof the following new item:

"10. Federal Assistance Program Consolidation ---------- 1001".

By Mr. CHURCH:

S. 2391. A bill to amend the Social Security Act to permit a grandchild who has been placed in legal custody of his grandparent to qualify for benefits as a child of his grandparent. Referred to the Committee on Finance.

SOCIAL SECURITY BENEFITS FOR A GRANDCHILD PLACED IN THE CUSTODY OF A GRANDPARENT

Mr. CHURCH. Mr. President, I introduce for appropriate reference a bill to permit grandchildren to receive social security benefits in certain instances when they have been placed in the custody of their grandparents.

A dependent grandchild who lives with and is supported by a grandparent is entitled to social security benefits on the basis of the grandparent's earnings record, provided certain conditions are met.

First, the grandchild's parents must be deceased or disabled when the grandparent died or became entitled to retirement or disability benefits.

Second, the grandchild may qualify for benefits if legally adopted by the insured worker's surviving spouse. In addition, the grandchild's parents must not be living in the same household and making regular contributions to the child's support at the time the insured worker died.

These requirements are designed to prevent collusive agreements for the purpose of obtaining social security benefits. And to my way of thinking, they are reasonable and proper.

However, it is still possible for a grandchild to live with and be dependent upon the grandparent for support—yet not qualify for monthly payments when the grandparent dies or becomes entitled to retirement or disability benefits.

My bill would provide further protection in these cases. Specifically, it would authorize social security benefits for a grandchild who lives with and is supported by a grandparent, provided a court order awarding the grandparent custody of the grandchild is in effect for at least 1 year and at the time the grandparent applies for retirement or disability benefits.

Social security is designed to protect workers and members of their family from loss of earnings because of death, retirement, or disability. A dependent grandchild who is supported by his grandparent suffers a similar loss of earnings when the grandparent dies, retires, or becomes disabled. And, I strongly believe that the grandchild should also be entitled to monthly benefits under these circumstances.

When a court awards a grandparent custody of a grandchild, it is in the interest of the youngster's well-being. But this purpose can be undermined if the grandchild is denied social security benefits when the grandparent dies, retires, or becomes disabled. The net impact is that the grandchild may be thrown on to the welfare rolls.

Finally, adoption is frequently not a feasible alternative under these circumstances. A grandparent may be reluctant to take this action, especially if there is any possibility that the grandchild may eventually be reunited with his parents.

Social security now provides valuable protection for practically every American family in one form or another. It is vitally important, however, that this essential program continue to be perfected and improved.

The proposal that I now introduce would be a constructive step in that direction.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2391

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the first sentence of section 216(e) of the Social Security Act is amended—

(1) by striking out "and" before clause (3), and

(2) by inserting before the period at the end thereof ", and (4) a person who is the grandchild of an individual or his spouse and who has been placed in the custody of such individual or his spouse by an order of a court of competent jurisdiction within the United States which is in effect on the day on which such individual's application for old-age insurance benefits or disability insurance benefits is filed and has been in effect for at least one year before such day".

SEC. 2. Section 202(d)(9)(A) of such Act is amended by inserting after "such first sentence" the following: ", or who is a child of an individual under clause (4) of such first sentence and is not a child of such individual under clause (1), (2), or (3) of such first sentence,".

SEC. 3. The amendments made by this Act shall apply with respect to monthly benefits payable under title II of the Social Security Act for months after the month in which this Act is enacted on the basis of applications for such benefits filed in or after the month in which this Act is enacted.

By Mr. MONDALE (for himself and Mr. CRANSTON):

S. 2392. A bill to amend title X of Public Law 93–344, the Congressional Budget and Impoundment Control Act, to improve procedures with respect to rescission of budget authority. Referred to the Committee on Government Operations.

IMPROVING PROCEDURES WITH RESPECT TO IMPOUNDMENT

Mr. MONDALE. Mr. President, today on behalf of myself and the distinguished senior Senator from California (Mr. CRANSTON), who serves with me on the Committee on the Budget, I am introducing legislation to amend title X of Public Law 93–344, the Congressional Budget Reform and Impoundment Control Act of 1974, to close a loophole which has become apparent as we have attempted to deal with the practice of Presidential impoundment of congressional appropriations under the act.

Title X of the act—known as the Impoundment Control Act—was intended to provide a well-defined, efficient procedure under which Congress could make timely and reasonable judgments about the merits of Presidential requests to retract or delay expenditures previously authorized and appropriated by the Congress.

Title X was an attempt to restore to Congress, along with the new responsibilities that the budget process imposes, the constitutional power of the purse, which had gradually been eroded by executive encroachment and congressional default.

Title X hoped to provide, for the first time, a method under which Congress could say "yea" or "nay" to impoundments, without need for potential recipients of funds to pursue complex, expensive, and time-consuming litigation to the point of constitutional confrontation.

The Congressional Budget Act attempted to create a procedure requiring complete, prompt, and lucid reporting of impoundments by the executive branch to the Congress in every instance where the President desired to impound funds the Congress had made available.

It also required the President to spell

out in detail his reasons or justification for the proposed impoundment.

The quality of reporting under these procedures has not been uniformly good, but there is evidence that an attempt has been made to comply with the terms of the act, and I am hopeful that as both branches become more familiar with the processes and requirements, the reports will reflect the letter and the spirit of the Budget Act.

Today, I am concerned not with the reporting aspects of the new impoundment procedures, but with the more basic question of when the President may withhold funds from obligation—funds that under law he would seem to be required to spend.

Since our Government of three coequal branches was created, there has nearly always been debate and conflict over the exact point at which the congressional power of the purse stops, and the legitimate discretion of the President to withhold appropriated funds from obligation begins.

Clearly, however, the Constitution gives to Congress the power to determine when, how much, and for what purpose federal expenditures should be made.

By the same token, it is clear that Congress has granted the President executive power to exercise the discretion to withhold funds, when, as a result of efficiency of operation, changes in requirements, or other similar reasons, the purpose which the Congress has defined can be accomplished for less money than anticipated.

The first impoundment on record was by President Thomas Jefferson and well illustrates the legitimate exercise of executive discretion to withhold funds in the face of changed requirements:

Congress appropriated $50,000 for construction and maintenance of gunboats to patrol the Mississippi River, which was then our western boundary. When, during the Jefferson administration, the Louisiana Purchase gave the United States both banks of the river, the President impounded the unexpended funds because the patrol was no longer necessary.

Clearly, this is a sensible and legitimate exercise of Presidential power.

But, it is a far cry from this modest exercise of executive discretion to the claim of President Nixon to constitutional power to withhold spending mandated by law when the President disagrees with the policy that the law was designed to effectuate.

Title X does not attempt to resolve the age-old conflict between the branches by pinpointing a line between legitimate legislative and executive functions.

Rather, it offers procedures to facilitate an appropriate response by the Congress after it receives the newly required notice of Presidential impoundments.

Title X specifically disclaims any intention to assert or concede the constitutional powers or limitations of either the President or the Congress.

Instead, as my colleagues are aware, it divides impoundments into two categories—rescissions and deferrals—and delineates a procedure for dealing with each.

It is important to recognize the distinction between the two categories, and the differences in the two procedures, to understand the amendment which Senator CRANSTON and I are proposing today.

"Deferrals" involve a temporary withholding or delaying of the obligation of funds provided for projects or activities, under express statutory authority contained in the Antideficiency Act (31 U.S.C. 665), specific appropriation acts, or other laws—of which the Library Services Act (70 Stat. 293), which authorizes withholding Federal funds for noncompliance—is an example.

"Recissions" seek the cancellation, total or partial, of funds previously provided, or involve the temporary or permanent refusal to obligate or spend funds for any executive policy reason except the temporary creation of reserves for contingencies or to effect savings made possible by changed requirements or program efficiencies.

Even when funds have been properly reserved under the deferral procedure, if it afterwards becomes apparent that they will not be subsequently used to carry out the full objectives and scope of the appropriation concerned, the President is required to propose a rescission of the amount withheld.

This difference between rescissions and deferrals is critical:

Since a deferral involves only a temporary delay in the obligation of funds to accomplish the purposes for which the funds were provided, the immediate obligation and expenditure of deferred funds is required if either House of Congress passes a resolution disapproving the proposed deferral, under section 1013 of the Budget Act. The act requires the President to specify the period of time during which the funds are proposed to be deferred, and the Congress may act at any time after the deferral has been proposed to disapprove the proposal, and release the funds.

The procedure for a rescission is exactly converse:

Here, the President has made a judgment that the funds that the Congress has appropriated for a given purpose should not be used for that purpose.

Under the procedure provided in section 1012 of the Budget Act, after the President proposes a rescission, the funds involved must nevertheless be made available for obligation after 45 days of continuous session of the Congress, unless within that period both Houses have completed action on a bill approving the proposed rescission.

If the Congress does not act at all, the proposal to rescind is thereby rejected, and the funds must be obligated when the time limit has expired.

The act, however, makes no provision for Congress to disapprove a proposed rescission within the 45-day waiting period. Thus, in all cases in which Congress wishes to disapprove a rescission proposal, it has been given no alternative but to wait out the 45-day period, during all of which the funds involved are presumably under executive impoundment.

Because of the way that the act prescribes that the 45-day period be counted, the actual time involved can and often will be considerably longer.

Sine die adjournment of the Congress during the 45-day period, as happens at the end of each year, causes the count to start again on the day following the first day of the new Congress.

During any recess of more than 3 days' duration, the recess time is not counted.

Cleverly timed rescission proposals, then, can take full advantage of these rules, especially in those cases where the President expects the Congress to reject his rescission request.

President Ford proposed five rescissions totaling $182 million on October 4, 1974, and another 39 rescissions totaling $864 million on November 26, 1974.

When the 93d Congress adjourned sine die on December 20, 1974, the 45-day period, counted as I have described, had not run on any of these rescission requests affecting more than $1 billion in funds for congressionally approved programs.

Congressional recesses had stopped the count between October 17 and November 18, and between November 26 and December 2.

As a result, the 45-day count started again on January 15, 1975, the day following the convening of the 94th Congress, and finally ran out on March 1, 1975.

During all of this period—in the case of the October rescission requests, a period of nearly 5 months—the funds in question were subjected to Presidential impoundment, and the existing title X procedures left Congress unable to do anything about it, since the act provides no means of disapproving a rescission request within the 45-day time limit.

One consequence was a serious setback for some desperately needed HUD housing programs, which are dependent upon a continuing flow of funds, not forthcoming because of the pending Presidential impoundment.

These housing programs had been the subject of continuous attack by both the Nixon and Ford administrations, which had requested their termination—a request which had been repeatedly rejected by the overwhelming majority of the Congress, which felt that meeting the housing needs of the poor and disadvantaged was, indeed, a proper role of the Federal Government.

The proposal we are making today closes the loophole which now permits Presidential policy impoundments to cripple programs the Congress desires to fund, by taking advantage of the 45-day waiting period of section 1013.

This amendment does not affect deferrals at all.

Instead, it simply makes clear that the Budget Act does not provide authority under section 1013 to impound funds during the pendency of a rescission request.

This amendment does not, on the other hand, absolutely require the President to spend money during the pendency of a rescission request.

Under our amendment, if the President desires to impound the funds which are the subject of a rescission request during the period when Congress is considering that proposal, he may do so by simultaneously reporting a deferral of

the same funds, giving the pendency of the rescission request as the reason for so doing.

Either House of the Congress is then in a position to pass an impoundment resolution disapproving the deferral, and releasing the funds, if that is the pleasure of that House, or to leave the impoundment in place if there is reason to believe that the rescission request may be approved.

I believe that this amendment, without altering the substance of the title X procedures, closes an unfortunate loophole in the procedures established by the original Budget Act, and will, if adopted, enable us to accomplish more efficiently the intent of that act. I urge its speedy adoption.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2392

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That P.L. 93-344, the Budget and Impoundment Control Act of 1974, is hereby amended as follows:

Strike out paragraph (b) of section 1012 of P.L. 93-344, the Congressional Budget and Impoundment Act of 1974, and insert in lieu thereof:

"(b) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—No amount of budget authority proposed to be rescinded or to be reserved as set forth in such special message may be reserved or withheld from obligations (except pursuant to section 1013 or by operation of other Law) unless and until, within the prescribed 45-day waiting period, the Congress has completed action on a rescission bill rescinding all or part of the amount prepared to be rescinded or that is to be reserved."

By Mr. JOHNSTON:

S. 2393. A bill to amend the Tariff Schedules of the United States with respect to jewelry. Referred to the Committee on Finance.

Mr. JOHNSTON. Mr. President, I am today introducing a bill that will correct an inequity that now exists with regard to the tariff assessed on inexpensive, plastic beads that are used in conjunction with our carnival celebration in Louisiana.

As many Senators know, a characteristic part of the carnival and Mardi Gras season are the parades conducted by a number of krewes in Louisiana. During these parades, masked krewe members riding on floats throw beads and other trinkets to the crowd.

At the present time, these beads—most of which range in price from $3 to $6 a gross—are taxed the duty of 27.5 percent assessed against all jewelry. Since these items are hardly the kind of personal adornment that our tariff regulations seek to provide protection for, I regard it as an inequity that this tariff has been applied.

Therefore, I would propose that a new tariff category to cover these Mardi Gras beads be established. Because the beads are thrown away by those who purchase them, and because they are much nearer to souvenirs than to items of jewelry, I would propose that these be imported duty free.

I am hopeful that our colleagues who have had a chance to visit in Louisiana during the Mardi Gras will recognize the inequity of applying the present tariff, and will support this proposal for change.

By Mr. MONDALE (for himself, Mr. HUMPHREY, Mr. NELSON, Mr. CURTIS, Mr. PHILIP A. HART, Mr. HARTKE, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. LAXALT, Mr. ABOUREZK, and Mr. MCGEE):

S. 2394. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the estate tax exemption, to provide that certain farm land included in the gross estate be valued according to its use as farm land, and for other purposes. Referred to the Committee on Finance.

ESTATE TAX RELIEF FOR FARMERS, SMALL BUSINESSMEN

Mr. MONDALE. Mr. President, I am today introducing, on behalf of myself and Senators HUMPHREY, NELSON, CURTIS, PHILIP A. HART, HARTKE, HOLLINGS, HUDDLESTON, LAXALT, and MCGEE, legislation that would substantially ease the growing burden of the Federal estate tax on family farms and businesses.

The bill would:

First. Increase the present $60,000 estate tax exemption to $150,000;

Second. Allow family farms to be valued for estate tax purposes at their value as farm land rather than their value for other commercial purposes, as long as the land is kept in the family and continues to be used for farming;

Third. Return the interest rate on 10-year installment payments of estate taxes—recently raised to 9 percent—to its previous level of 4 percent; and

Fourth. Allow 10-year installment payments whenever immediate payment would result in hardship—instead of undue hardship, as present law requires.

These were among the most frequent recommendations made at a hearing held in Minneapolis on August 26 before the Senate Small Business Committee and the Joint Economic Committee. Senator HUMPHREY and I heard there from a number of small businessmen and farmers about the problems they face in paying Federal estate and gift taxes, and of the severe burden this could place on their estate and their heirs.

In some cases, it could prove necessary to sell part of or all of a family farm or business in order to pay estate taxes.

This hurts everyone. It hurts the family that loses its farm or business. It hurts the community that loses the support and concern that local ownership brings. And it hurts our national economy, as concentration increasingly pushes out competition.

The healthy competition our economy needs to continue strong, noninflationary growth is undermined when family farms are taken over by huge corporate farming operations, and when independent and innovative small businesses are taken over by large outside corporations.

Our estate and gift tax laws are intended in part to prevent excessive concentrations of wealth. Yet in their application to small businesses and family farms, they may inadvertently be increasing it.

The changes we are proposing could help to ease this problem by:

Increasing the $60,000 exemption to $150,000.—The present $60,000 exemption has remained unchanged since 1942, while the price of everything else has gone up enormously. Increasing the exemption to $150,000 would help to make up for this erosion in the real value of the exemption over the last 33 years. The revenue loss from this change would be substantial—$1.7 billion—and it should, therefore, be made in conjunction with other revenue-raising changes. If enough revenue can be raised through additional reforms in the estate and gift tax laws, a further increase in the exemption above $150,000 and a liberalization of the marital deduction should be considered.

Allowing valuation as farm land.—When farms are located near rapidly growing urban areas, the value of the land for purposes other than farming—housing developments, shopping centers, et cetera—often far exceeds its farm value. If the property is valued for estate tax purposes at its higher, nonfarm value, the heavy estate tax due could well force the heirs to sell the farm to pay the tax. The bill we propose would allow the land to be valued for estate tax purposes at its value for farming. To be eligible for this lower valuation, the farm must constitute a large portion of the estate, and it must have been used for farming for 5 years prior to the owner's death. The land must be kept in the family and used for farming after the owner's death, and if at some later point these conditions are no longer met, the higher estate tax based on the nonfarm value must be paid.

Liberalizing the installment payment provisions.—Present law allows the estate tax to be paid in installments over as many as 10 years in cases of undue hardship or if the estate includes a farm or closely held business which amounts to 35 percent of the gross estate or 50 percent of the taxable estate. These installment payment provisions are rarely used. For 1972, for example, IRS statistics indicate that fewer than 1 percent of the taxable estate tax returns included a request to pay in 10-year installments, and there is no data on how many of these requests were granted. Making the installment payment provisions easier to use could well ease the liquidity problems faced by many family farms and businesses, and make it unnecessary to sell the farm or business to pay the estate tax. Two changes can be readily made:

Return the interest rate to 4 percent.—Prior to July 1 of this year, the interest rate on estate tax installment payments was only 4 percent, but as a result of legislation passed late last year, the rate is now 9 percent. Returning this rate to its earlier level would make it easier for heirs to pay the estate tax out of the proceeds of the farm or business, and avoid a forced sale.

Require only simple "hardship."—The present requirement of "undue hardship"